

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

ACUITY, A Mutual Insurance Company,

Plaintiff,

v.

No. 3:16-cv-00865-DRH-SCW

**JAMES SWAN and HARDIN
READY MIX, INC.,**

Defendants.

DEFAULT JUDGMENT AGAINST JAMES SWAN

Comes now the Plaintiff, ACUITY, A Mutual Insurance Company, by counsel, the firm of Jackson Kelly PLLC, and submits to the Court its Verified Amended Motion for Default Judgment against Defendant, James Swan.

And the Court, being duly advised, finds that it has jurisdiction over the parties and subject matter of this action and that the Defendant, James Swan, received service of the Complaint and Summons, is not in the military service of the United States and has failed to answer or otherwise defend the Complaint, so that Default Judgment should be entered against Defendant, James Swan.

**IT IS THEREFORE CONSIDERED ORDERED, ADJUDGED AND
DECreed** that the Plaintiff's Verified Amended Motion for Default Judgment against Defendant, James Swan, should be and hereby is granted, and that the Plaintiff hereby has and takes against Defendant, James Swan, a judgment as follows:

- a. That James Swan is prohibited from arguing that there is coverage for Hardin Ready Mix, Inc. for the Underlying Action under the Policy;
- b. That James Swan is prohibited from arguing that Acuity owes a duty to defend Hardin Ready Mix, Inc. in the Underlying Action under the Policy;
- c. That James Swan is prohibited from arguing that Acuity owes a duty to indemnify Hardin Ready Mix, Inc. in the Underlying Action under the Policy; and,
- d. For entry of judgment in Acuity's favor and against James Swan accordingly.

IT IS SO ORDERED.

Signed this 11th day of January, 2017.


Digitally signed by
Judge David R.
Herndon
Date: 2017.01.11
14:59:38 -06'00'

UNITED STATES DISTRICT JUDGE